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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION
11

12 PATRICK PIERCE,
13 Plaintiff,

14 v.

15 WELLS FARGO BANK,
and DOES 1 through 20,
16 Defendants.
17

CASE NO. C08-01554 JF (HRL)

**STIPULATION AND
~~PROPOSED~~ ORDER
GRANTING LEAVE TO FILE
SECOND AMENDED
COMPLAINT**

18 WHEREAS:

19 A. By order dated July 18, 2008, the Court granted leave to file an amended complaint
20 within thirty (30) days of the date of the order;

21 B Plaintiff Patrick Pierce ("Pierce") filed a First Amended Complaint on August 29,
22 2008;
23

24 C. The parties engaged in an unsuccessful settlement conference before Hon. Howard
25 Lloyd on October 17, 2008;

26 D. Following the settlement conference Pierce decided to seek leave to file a further
27 amended complaint, and asked defendant Wells Fargo Bank, N.A. ("WFB") to stipulate to the filing
28

1 of such further amended complaint;

2 E. WFB having agreed to stipulate to the filing of a further amended complaint as
 3 requested by Piece. In so stipulating, WFB does not indicate that it believes the new amended
 4 complaint contains any actionable claims or claims that are not preempted by ERISA. WFB
 5 reserves all its legal rights to defend against such claims including, but not limited to, moving to
 6 dismiss all the claims set forth in the amended complaint.
 7

8 NOW THEREFORE IT IS HEREBY STIPULATED by and between Pierce and WFB,
 9 through their respective counsel, that Pierce may file a further amended complaint within ten (10)
 10 days of the entry of the order stipulated to herein.

11 Dated: October 31, 2008

CARR & FERRELL LLP

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 13 By: /s/ Stuart C. Clark

14 STUART C. CLARK

15 Attorneys for plaintiff Patrick Pierce

16 Dated: October 30, 2008

ORRICK, HERRINGTON & SUTCLIFFE LLP

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 18 By: /s/ Greg J. Richardson

19 GREG J. RICHARDSON

20 Attorneys for Defendant
 21 WELLS FARGO BANK, N.A.

22 PURSUANT TO STIPULATION, IT IS SO ORDERED.

23 November 5

24 DATED: ~~October~~ , 2008

25 

26 JEREMY FOGEL
 27 UNITED STATES DISTRICT JUDGE
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